

AMENDED IN ASSEMBLY MARCH 17, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2117

Introduced by Assembly Member Niello

February 18, 2010

An act to amend Sections 1513, 1513.5, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, 1520, 1521, 1540, and 1564 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, as amended, Niello. Unclaimed property.

(1) The Unclaimed Property Law provides for the escheat to the state of abandoned property, including certain deposits, accounts, shares, or other interests with a banking or financial organization, business association, or other holder of personal property. Under existing law, the holder of abandoned property transfers the property to the Controller after the property is inactive for a period of 3 years, including when the owner has not increased or decreased the amount of a deposit, cashed an interest check, or presented a passbook or other similar evidence of a deposit for the crediting of interest.

This bill would extend this 3-year period to require that the holder transfer the abandoned property to the Controller after the property is inactive for a period of 5 years.

(2) Existing law allows any person, excluding another state, who claims an interest in property paid or delivered to the Controller under the above provisions of law to file a claim to the property or to the net proceeds from its sale. Existing law requires the Controller to consider each claim within 180 days after it is filed. *Existing law also requires*

the Controller; following a public hearing, to adopt guidelines and forms that provide instructions to assist owners in filing a claim.

This bill would require the Controller to add interest, at a prescribed rate, to the amount of any claim paid to the owner under these provisions for the period the property was on deposit in the Unclaimed Property Fund, except as specified. It would require a holder who pays to the owner property that has escheated to the state and that, if claimed from the Controller, would be subject to the provisions regarding the payment of interest to add interest in accordance with those provisions, and would require the Controller to repay that interest to the holder. *This bill would also delete the requirement that the Controller adopt guidelines and forms, as provided.*

(3) Existing law requires that all money received pursuant to the Unclaimed Property Law, including proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund. This fund is continuously appropriated to the Controller, who is required to transfer all money in the fund in excess of \$50,000 to the General Fund at the end of each month, as specified. ~~Existing law requires the Controller to record the names and last known addresses of each person in connection with the escheated property, as specified, and to make this record available for public inspection.~~

This bill would delete the requirement that the Controller transfer all money in the Unclaimed Property Fund in excess of \$50,000 to the General Fund ~~and to record and make available specified names and addresses, as described above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:
3 1513. (a) Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:
6 (1) (A) Except as provided in paragraph (6), any demand,
7 savings, or matured time deposit, or account subject to a negotiable
8 order of withdrawal, made with a banking organization, together
9 with any interest or dividends thereon, excluding, from demand
10 deposits and accounts subject to a negotiable order of withdrawal

1 only, any reasonable service charges that may lawfully be withheld
2 and that do not (where made in this state) exceed those set forth
3 in schedules filed by the banking organization from time to time
4 with the Controller, when the owner, for more than five years, has
5 not done any of the following:

6 (i) Increased or decreased the amount of the deposit, cashed an
7 interest check, or presented the passbook or other similar evidence
8 of the deposit for the crediting of interest.

9 (ii) Corresponded electronically or in writing with the banking
10 organization concerning the deposit.

11 (iii) Otherwise indicated an interest in the deposit as evidenced
12 by a memorandum or other record on file with the banking
13 organization.

14 (B) A deposit or account shall not, however, escheat to the state
15 if, during the previous five years, the owner has owned another
16 deposit or account with the banking organization or the owner has
17 owned an individual retirement account or funds held by the
18 banking organization under a retirement plan for self-employed
19 individuals or a similar account or plan established pursuant to the
20 internal revenue laws of the United States or the laws of this state,
21 as described in paragraph (6), and, with respect to that deposit,
22 account, or plan, the owner has done any of the acts described in
23 clauses (i), (ii) or (iii) of subparagraph (A), and the banking
24 organization has communicated electronically or in writing with
25 the owner, at the address where communications regarding that
26 deposit, account, or plan are regularly sent, with regard to the
27 deposit, account, or plan that would otherwise escheat under
28 subparagraph (A). For purposes of this subparagraph,
29 “communications” includes account statements or statements
30 required under the internal revenue laws of the United States.

31 (C) No banking organization may discontinue any interest or
32 dividends on any savings deposit because of the inactivity
33 contemplated by this section.

34 (2) (A) Except as provided in paragraph (6), any demand,
35 savings, or matured time deposit, or matured investment certificate,
36 or account subject to a negotiable order of withdrawal, or other
37 interest in a financial organization or any deposit made therewith,
38 and any interest or dividends thereon, excluding, from demand
39 deposits and accounts subject to a negotiable order of withdrawal
40 only, any reasonable service charges that may lawfully be withheld

1 and that do not (where made in this state) exceed those set forth
2 in schedules filed by the financial organization from time to time
3 with the Controller, when the owner, for more than five years, has
4 not done any of the following:

5 (i) Increased or decreased the amount of the funds or deposit,
6 cashed an interest check, or presented an appropriate record for
7 the crediting of interest or dividends.

8 (ii) Corresponded electronically or in writing with the financial
9 organization concerning the funds or deposit.

10 (iii) Otherwise indicated an interest in the funds or deposit as
11 evidenced by a memorandum or other record on file with the
12 financial organization.

13 (B) A deposit or account shall not, however, escheat to the state
14 if, during the previous five years, the owner has owned another
15 deposit or account with the financial organization or the owner
16 has owned an individual retirement account or funds held by the
17 financial organization under a retirement plan for self-employed
18 individuals or a similar account or plan established pursuant to the
19 internal revenue laws of the United States or the laws of this state,
20 as described in paragraph (6), and, with respect to that deposit,
21 account, or plan, the owner has done any of the acts described in
22 clauses (i), (ii) or (iii) of subparagraph (A), and the financial
23 organization has communicated electronically or in writing with
24 the owner, at the address where communications regarding that
25 deposit, account, or plan are regularly sent, with regard to the
26 deposit, account, or plan that would otherwise escheat under
27 subparagraph (A). For purposes of this subparagraph,
28 “communications” includes account statements or statements
29 required under the internal revenue laws of the United States.

30 (C) No financial organization may discontinue any interest or
31 dividends on any funds paid toward purchase of shares or other
32 interest, or on any deposit, because of the inactivity contemplated
33 by this section.

34 (3) Any sum payable on a traveler’s check issued by a business
35 association that has been outstanding for more than 15 years from
36 the date of its issuance, when the owner, for more than 15 years,
37 has not corresponded in writing with the business association
38 concerning it, or otherwise indicated an interest as evidenced by
39 a memorandum or other record on file with the association.

1 (4) Any sum payable on any other written instrument where a
2 banking or financial organization is directly liable, including, by
3 way of illustration but not of limitation, any draft, cashier's check,
4 teller's check, or certified check, that has been outstanding for
5 more than five years from the date it was payable, or from the date
6 of its issuance if payable on demand, when the owner, for more
7 than five years, has not corresponded electronically or in writing
8 with the banking or financial organization concerning it, or
9 otherwise indicated an interest as evidenced by a memorandum or
10 other record on file with the banking or financial organization.

11 (5) Any sum payable on a money order issued by a business
12 association (including a banking or financial organization), that
13 has been outstanding for more than seven years from the date it
14 was payable, or from the date of its issuance if payable on demand,
15 excluding any reasonable service charges that may lawfully be
16 withheld and that do not, when made in this state, exceed those
17 set forth in schedules filed by the business association from time
18 to time with the Controller, when the owner, for more than seven
19 years, has not corresponded electronically or in writing with the
20 business association, banking, or financial organization concerning
21 it, or otherwise indicated an interest as evidenced by a
22 memorandum or other record on file with the business association.
23 For the purposes of this subdivision, "reasonable service charge"
24 means a service charge that meets all of the following requirements:

25 (A) It is uniformly applied to all of the issuer's money orders.

26 (B) It is clearly disclosed to the purchaser at the time of purchase
27 and to the recipient of the money order.

28 (C) It does not begin to accrue until three years after the
29 purchase date, and it stops accruing after the value of the money
30 order escheats.

31 (D) It is permitted by contract between the issuer and the
32 purchaser.

33 (E) It does not exceed 25 cents (\$0.25) per month or the
34 aggregate amount of twenty-one dollars (\$21).

35 (6) (A) Any funds held by a business association in an
36 individual retirement account or under a retirement plan for
37 self-employed individuals or similar account or plan established
38 pursuant to the internal revenue laws of the United States or of
39 this state, when the owner, for more than three years after the funds
40 become payable or distributable, has not done any of the following:

- 1 (i) Increased or decreased the principal.
2 (ii) Accepted payment of principal or income.
3 (iii) Corresponded electronically or in writing concerning the
4 property or otherwise indicated an interest.

5 (B) Funds held by a business association in an individual
6 retirement account or under a retirement plan for self-employed
7 individuals or a similar account or plan created pursuant to the
8 internal revenue laws of the United States or the laws of this state
9 shall not escheat to the state if, during the previous five years, the
10 owner has owned another such account or plan with the business
11 association and, with respect to that account or plan, the owner
12 has done any of the acts described in clause (i), (ii), or (iii) of
13 subparagraph (A), and the business association has communicated
14 electronically or in writing with the owner, at the address where
15 communications regarding that account or plan are regularly sent,
16 with regard to the account or plan that would otherwise escheat
17 under subparagraph (A). For purposes of this subparagraph,
18 “communications” includes account statements or statements
19 required under the internal revenue laws of the United States.

20 (C) These funds are not payable or distributable within the
21 meaning of this subdivision unless, under the terms of the account
22 or plan, distribution of all or a part of the funds would then be
23 mandatory.

24 (7) Any wages or salaries that have remained unclaimed by the
25 owner for more than five years after the wages or salaries become
26 payable.

27 (b) For purposes of this section “service charges” means service
28 charges imposed because of the inactivity contemplated by this
29 section.

30 SEC. 2. Section 1513.5 of the Code of Civil Procedure is
31 amended to read:

32 1513.5. (a) Except as provided in subdivision (c), if the holder
33 has in its records an address for the apparent owner, and the
34 holder’s records do not disclose it to be inaccurate, every banking
35 or financial organization shall make reasonable efforts to notify
36 any owner by mail or, if the owner has consented to electronic
37 notice, electronically, that the owner’s deposit, account, shares, or
38 other interest in the banking or financial organization will escheat
39 to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A)

1 of paragraphs (1), (2), or (6) of subdivision (a) of Section 1513.
2 The holder shall give notice either:

3 (1) Not less than two years nor more than two and one-half
4 years after the date of last activity by, or communication with, the
5 owner with respect to the account, deposit, shares, or other interest,
6 as shown on the record of the banking or financial organization.

7 (2) Not less than six nor more than 12 months before the time
8 the account, deposit, shares, or other interest becomes reportable
9 to the Controller in accordance with this chapter.

10 (b) The notice required by this section shall specify the time
11 that the deposit, account, shares, or other interest will escheat and
12 the effects of escheat, including the necessity for filing a claim for
13 the return of the deposit, account, shares, or other interest. The
14 face of the notice shall contain a heading at the top that reads as
15 follows: "THE STATE OF CALIFORNIA REQUIRES US TO
16 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
17 BE TRANSFERRED TO THE STATE IF YOU DO NOT
18 CONTACT US," or substantially similar language. The notice
19 required by this section shall, in boldface type or in a font a
20 minimum of two points larger than the rest of the notice, exclusive
21 of the heading, (1) specify that since the date of last activity, or
22 for the last two years, there has been no owner activity on the
23 deposit, account, shares, or other interest; (2) identify the deposit,
24 account, shares, or other interest by number or identifier, that need
25 not exceed four digits; (3) indicate that the deposit, account, shares,
26 or other interest is in danger of escheating to the state; and (4)
27 specify that the California Unclaimed Property Law requires banks,
28 banking organizations, and financial organizations to transfer funds
29 of a deposit, account, shares, or other interest if it has been inactive
30 for five years. It shall also include a form, as prescribed by the
31 Controller, by which the owner may declare an intention to
32 maintain the deposit, account, shares, or other interest. If that form
33 is filled out, signed by the owner, and returned to the banking or
34 financial organization, it shall satisfy the requirement of clause
35 (iii) of subparagraph (A) of paragraph (1), clause (iii) of
36 subparagraph (A) of paragraph (2), or clause (iii) of subparagraph
37 (A) of paragraph (6) of subdivision (a) of Section 1513. In lieu of
38 returning the form, the banking or financial organization may
39 provide a telephone number or other electronic means to enable
40 the owner to contact that organization. The contact, as evidenced

1 by a memorandum or other record on file with the banking or
2 financial organization, shall satisfy the requirement of clause (iii)
3 of subparagraph (A) of paragraph (1), clause (iii) of subparagraph
4 (A) of paragraph (2), or clause (iii) of subparagraph (A) of
5 paragraph (6) of subdivision (a) of Section 1513. The banking or
6 financial organization may impose a service charge on the deposit,
7 account, shares, or other interest for this notice in an amount not
8 to exceed the administrative cost of mailing or electronically
9 sending the notice and form and in no case to exceed two dollars
10 (\$2).

11 (c) Notice as provided by subdivisions (a) and (b) shall not be
12 required for deposits, accounts, shares, or other interests of less
13 than fifty dollars (\$50), and no service charge may be made for
14 notice on these items.

15 (d) In addition to the notices required pursuant to subdivision
16 (a), the holder may give additional notice as described in
17 subdivision (b) at any time between the date of last activity by, or
18 communication with, the owner and the date the holder transfers
19 the deposit, account, shares, or other interest to the Controller.

20 (e) At the time a new account is opened with a banking or
21 financial organization, the organization shall provide a written
22 notice to the person opening the account informing the person that
23 his or her property may be transferred to the appropriate state if
24 no activity occurs in the account within the time period specified
25 by state law. If the person opening the account has consented to
26 electronic notice, that notice may be provided electronically. This
27 subdivision shall become effective on January 1, 2011.

28 SEC. 3. Section 1514 of the Code of Civil Procedure is
29 amended to read:

30 1514. (a) The contents of, or the proceeds of sale of the
31 contents of, any safe deposit box or any other safekeeping
32 repository, held in this state by a business association, escheat to
33 this state if unclaimed by the owner for more than five years from
34 the date when the lease or rental period on the box or other
35 repository expired, or from the date of termination of any
36 agreement because the box or other repository was furnished to
37 the owner without cost, whichever last occurs.

38 (b) If a business association has in its records an address for an
39 apparent owner of the contents of, or the proceeds of sale of the
40 contents of, a safe deposit box or other safekeeping repository

1 described in subdivision (a), and the records of the business
2 association do not disclose the address to be inaccurate, the
3 business association shall make reasonable efforts to notify the
4 owner by mail, or, if the owner has consented to electronic notice,
5 electronically, that the owner's contents, or the proceeds of the
6 sale of the contents, will escheat to the state pursuant to this section.
7 The business association shall give notice not less than six months
8 and not more than 12 months before the time the contents, or the
9 proceeds of the sale of the contents, become reportable to the
10 Controller in accordance with this chapter.

11 (c) The face of the notice shall contain a heading at the top that
12 reads as follows: "THE STATE OF CALIFORNIA REQUIRES
13 US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY
14 MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT
15 CONTACT US," or substantially similar language. The notice
16 required by this subdivision shall specify the date that the property
17 will escheat and the effects of escheat, including the necessity for
18 filing a claim for the return of the property. The notice required
19 by this section shall, in boldface type or in a font a minimum of
20 two points larger than the rest of the notice, exclusive of the
21 heading, do all of the following:

22 (1) Identify the safe deposit box or other safekeeping repository
23 by number or identifier.

24 (2) State that the lease or rental period on the box or repository
25 has expired or the agreement has terminated.

26 (3) Indicate that the contents of, or the proceeds of sale of the
27 contents of, the safe deposit box or other safekeeping repository
28 will escheat to the state unless the owner requests the contents or
29 their proceeds.

30 (4) Specify that the California Unclaimed Property Law requires
31 business associations to transfer the contents of, or the proceeds
32 of sale of the contents of, a safe deposit box or other safekeeping
33 repository to the Controller if they remain unclaimed for more
34 than five years.

35 (5) Advise the owner to make arrangements with the business
36 association to either obtain possession of the contents of, or the
37 proceeds of sale of the contents of, the safe deposit box or other
38 safekeeping repository, or enter into a new agreement with the
39 business association to establish a leasing or rental arrangement.
40 If an owner fails to establish such an arrangement prior to the end

1 of the period described in subdivision (a), such contents or proceeds
2 shall escheat to this state.

3 (d) In addition to the notice required pursuant to subdivision
4 (b), the business association may give additional notice in
5 accordance with subdivision (c) at any time between the date when
6 the lease or rental period for the safe deposit box or repository
7 expired, or from the date of the termination of any agreement,
8 through when the box or other repository was furnished to the
9 owner without cost, whichever is earlier, and the date the business
10 association transfers the contents of, or the proceeds of sale of the
11 contents of, the safe deposit box or other safekeeping repository
12 to the Controller.

13 (e) The contents of, or the proceeds of sale of the contents of,
14 a safe deposit box or other safekeeping repository shall not escheat
15 to the state if, as of June 30 or the fiscal yearend next preceding
16 the date when a report is required to be filed under Section 1530,
17 the owner has owned, with a banking organization providing the
18 safe deposit box or other safekeeping repository, any demand,
19 savings, or matured time deposit, or account subject to a negotiable
20 order of withdrawal, that has not escheated under Section 1513
21 and is not reportable under subdivision (d) of Section 1530.

22 (f) The contents of, or the proceeds of sale of the contents of, a
23 safe deposit box or other safekeeping repository shall not escheat
24 to the state if, as of June 30 or the fiscal yearend next preceding
25 the date when a report is required to be filed under Section 1530,
26 the owner has owned, with a financial organization providing the
27 safe deposit box or other safekeeping repository, any demand,
28 savings, or matured time deposit, or matured investment certificate,
29 or account subject to a negotiable order of withdrawal, or other
30 interest in a financial organization or any deposit made therewith,
31 and any interest or dividends thereon, that has not escheated under
32 Section 1513 and is not reportable under subdivision (d) of Section
33 1530.

34 (g) The contents of, or the proceeds of sale of the contents of,
35 a safe deposit box or other safekeeping repository shall not escheat
36 to the state if, as of June 30 or the fiscal yearend next preceding
37 the date when a report is required to be filed under Section 1530,
38 the owner has owned, with a banking or financial organization
39 providing the safe deposit box or other safekeeping repository,
40 any funds in an individual retirement account or under a retirement

1 plan for self-employed individuals or similar account or plan
2 pursuant to the internal revenue laws of the United States or the
3 income tax laws of this state, that has not escheated under Section
4 1513 and is not reportable under subdivision (d) of Section 1530.

5 (h) In the event the owner is in default under the safe deposit
6 box or other safekeeping repository agreement and the owner has
7 owned any demand, savings, or matured time deposit, account, or
8 plan described in subdivisions (e), (f), or (g), the banking or
9 financial organization may pay or deliver the contents of, or the
10 proceeds of sale of the contents of, the safe deposit box or other
11 safekeeping repository to the owner after deducting any amount
12 due and payable from those proceeds under that agreement. Upon
13 making that payment or delivery under ~~these subdivisions~~ *this*
14 *subdivision*, the banking or financial organization shall be relieved
15 of all liability to the extent of the value of those contents or
16 proceeds.

17 (i) For new accounts opened for a safe deposit box or other
18 safekeeping repository with a business association on and after
19 January 1, 2011, the business association shall provide a written
20 notice to the person leasing the safe deposit box or safekeeping
21 repository informing the person that his or her property, or the
22 proceeds of sale of such property, may be transferred to the
23 appropriate state upon running of the time period specified by state
24 law from the date the lease or rental period on the safe deposit box
25 or repository expired, or from the date of termination of any
26 agreement because the box or other repository was furnished to
27 the owner without cost, whichever is earlier.

28 (j) A business association may directly escheat the contents of
29 a safe deposit box or other safekeeping repository without
30 exercising its rights under Article 2 (commencing with Section
31 1660) of Chapter 13 of Division 1 of the Financial Code.

32 SEC. 4. Section 1515 of the Code of Civil Procedure is
33 amended to read:

34 1515. (a) Subject to Section 1510, funds held or owing by a
35 life insurance corporation under any life or endowment insurance
36 policy or annuity contract that has matured or terminated escheat
37 to this state if unclaimed and unpaid for more than five years after
38 the funds became due and payable as established from the records
39 of the corporation.

(b) If a person other than the insured or annuitant is entitled to the funds and no address of that person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation. This presumption is a presumption affecting the burden of proof.

(c) A life insurance policy not matured by actual proof of the death of the insured according to the records of the corporation is deemed to be matured and the proceeds due and payable if:

(1) The insured has attained, or would have attained if he or she were living, the limiting age under the mortality table that the reserve is based on.

(2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph (1).

(3) Neither the insured nor any other person appearing to have an interest in the policy has, within the preceding five years, according to the records of the corporation (i) assigned, readjusted, or paid premiums on the policy, (ii) subjected the policy to loan, or (iii) corresponded in writing with the life insurance corporation concerning the policy.

(d) Any funds otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

SEC. 5. Section 1515.5 of the Code of Civil Procedure is amended to read:

1515.5. Property distributable in the course of a demutualization or related reorganization of an insurance company is deemed abandoned as follows:

(a) On the date of the demutualization or reorganization, if the instruments or statements reflecting the distribution are not mailed to the owner because the address on the books and records for the holder is known to be incorrect.

(b) Two years after the date of the demutualization or reorganization, if instruments or statements reflecting the distribution are mailed to the owner and returned by the post office as undeliverable and the owner has done neither of the following:

(1) Communicated in writing with the holder or its agent regarding the property.

1 (2) Otherwise communicated with the holder or its agent
2 regarding the property as evidenced by a memorandum or other
3 record on file with the holder or its agent.

4 (c) Five years after the date of the demutualization or
5 reorganization, if instruments or statements reflecting the
6 distribution are mailed to the owner and not returned by the post
7 office as undeliverable and the owner has done neither of the
8 following:

9 (1) Communicated in writing with the holder or its agent
10 regarding the property.

11 (2) Otherwise communicated with the holder or its agent
12 regarding the property as evidenced by a memorandum or other
13 record on file with the holder or its agent.

14 SEC. 6. Section 1516 of the Code of Civil Procedure is
15 amended to read:

16 1516. (a) Subject to Section 1510, any dividend, profit,
17 distribution, interest, payment on principal, or other sum held or
18 owing by a business association for or to its shareholder, certificate
19 holder, member, bondholder, or other security holder, or a
20 participating patron of a cooperative, who has not claimed it, or
21 corresponded in writing with the business association concerning
22 it, within five years after the date prescribed for payment or
23 delivery, escheats to this state.

24 (b) Subject to Section 1510, any intangible interest in a business
25 association, as evidenced by the stock records or membership
26 records of the association, escheats to this state if (1) the interest
27 in the association is owned by a person who for more than five
28 years has neither claimed a dividend or other sum referred to in
29 subdivision (a) nor corresponded in writing with the association
30 or otherwise indicated an interest as evidenced by a memorandum
31 or other record on file with the association, and (2) the association
32 does not know the location of the owner at the end of the five-year
33 period. With respect to the interest, the business association shall
34 be deemed the holder.

35 (c) Subject to Section 1510, any dividends or other distributions
36 held for or owing to a person at the time the stock or other security
37 that they attach escheats to this state also escheat to this state as
38 of the same time.

39 (d) If the business association has in its records an address for
40 the apparent owner, that the business association's records do not

1 disclose to be inaccurate, with respect to any interest that may
2 escheat pursuant to subdivision (b), the business association shall
3 make reasonable efforts to notify the owner by mail or, if the owner
4 has consented to electronic notice, electronically, that the owner's
5 interest in the business association will escheat to the state. The
6 notice shall be given not less than 6 nor more than 12 months
7 before the time the interest in the business association becomes
8 reportable to the Controller in accordance with this chapter. The
9 face of the notice shall contain a heading at the top that reads as
10 follows: "THE STATE OF CALIFORNIA REQUIRES US TO
11 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
12 BE TRANSFERRED TO THE STATE IF YOU DO NOT
13 CONTACT US," or substantially similar language. The notice
14 required by this subdivision shall specify the time that the interest
15 will escheat and the effects of escheat, including the necessity for
16 filing a claim for the return of the interest. The notice required by
17 this section shall, in boldface type or in a font a minimum of two
18 points larger than the rest of the notice, exclusive of the heading,
19 (1) specify that since the date of last activity, or for the last two
20 years, there has been no customer activity on the deposit, account,
21 shares, or other interest; (2) identify the deposit, account, shares,
22 or other interest by number or identifier, that need not exceed four
23 digits; (3) indicate that the deposit, account, shares, or other interest
24 is in danger of escheating to the state; and (4) specify that the
25 California Unclaimed Property Law requires banks, banking
26 organizations, and financial organizations to transfer funds of a
27 deposit, account, shares, or other interest if it has been inactive for
28 five years. It shall also include a form, as prescribed by the
29 Controller, by which the owner may confirm the owner's current
30 address. If that form is filled out, signed by the owner, and returned
31 to the holder, it shall be deemed that the business association knows
32 the location of the owner. In lieu of returning the form, the business
33 association may provide a telephone number or other electronic
34 means to enable the owner to contact the association. With that
35 contact, as evidenced by a memorandum or other record on file
36 with the business association, the business association shall be
37 deemed to know the location of the owner. The business association
38 may impose a service charge on the deposit, account, shares, or
39 other interest for this notice and form in an amount not to exceed

1 the administrative cost of mailing or electronically sending the
2 notice and form, and in no case to exceed two dollars (\$2).

3 (e) In addition to the notice required pursuant to subdivision
4 (d), the holder may give additional notice as described in
5 subdivision (d) at any time between the date of last activity by, or
6 communication with, the owner and the date the holder transfers
7 the deposit, shares, or other interest to the Controller.

8 SEC. 7. Section 1517 of the Code of Civil Procedure is
9 amended to read:

10 1517. (a) All property distributable in the course of a voluntary
11 or involuntary dissolution or liquidation of a business association
12 that is unclaimed by the owner within five years after the date of
13 final distribution or liquidation escheats to this state.

14 (b) All property distributable in the course of voluntary or
15 involuntary dissolution or liquidation of an insurer or other person
16 brought under Article 14 (commencing with Section 1010) of
17 Chapter 1 of Part 2 of Division 1 of the Insurance Code, that is
18 unclaimed by the owner after five years of the date of final
19 distribution, shall be transferred to the Department of Insurance,
20 with any proceeds of sale of property and other funds to be
21 deposited in the Insurance Fund for expenditure as provided in
22 Section 12937 of the Insurance Code.

23 (c) This section applies to all tangible personal property located
24 in this state and, subject to Section 1510, to all intangible personal
25 property.

26 SEC. 8. Section 1518 of the Code of Civil Procedure is
27 amended to read:

28 1518. (a) All tangible personal property located in this state
29 and, subject to Section 1510, all intangible personal property, and
30 the income or increment on that tangible or intangible property,
31 held in a fiduciary capacity for the benefit of another person
32 escheats to this state if after it becomes payable or distributable,
33 the owner has not, within a period of five years, increased or
34 decreased the principal, accepted payment of principal or income,
35 corresponded in writing concerning the property, or otherwise
36 indicated an interest as evidenced by a memorandum or other
37 record on file with the fiduciary.

38 (b) Funds in an individual retirement account or a retirement
39 plan for self-employed individuals or similar account or plan
40 established pursuant to the internal revenue laws of the United

1 States or of this state are not payable or distributable within the
2 meaning of subdivision (a) unless, under the terms of the account
3 or plan, distribution of all or part of the funds would then be
4 mandatory.

5 (c) For the purpose of this section, if a person holds property
6 as an agent for a business association, he or she is deemed to hold
7 the property in a fiduciary capacity for the business association
8 alone, unless the agreement between him or her and the business
9 association clearly provides the contrary. For the purposes of this
10 chapter, if a person holds property in a fiduciary capacity for a
11 business association alone, he or she is the holder of the property
12 only insofar as the interest of the business association in the
13 property is concerned and the association is deemed to be the
14 holder of the property insofar as the interest of any other person
15 in the property is concerned.

16 SEC. 9. Section 1519 of the Code of Civil Procedure is
17 amended to read:

18 1519. All tangible personal property located in this state, and,
19 subject to Section 1510, all intangible personal property, held for
20 the owner by any government or governmental subdivision or
21 agency, that has remained unclaimed by the owner for more than
22 five years escheats to this state.

23 SEC. 10. Section 1520 of the Code of Civil Procedure is
24 amended to read:

25 1520. (a) All tangible personal property located in this state
26 and, subject to Section 1510, all intangible personal property,
27 except property of the classes mentioned in Sections 1511, 1513,
28 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
29 any income or increment thereon and deducting any lawful charges,
30 that is held or owing in the ordinary course of the holder's business
31 and has remained unclaimed by the owner for more than five years
32 after it became payable or distributable escheats to this state.

33 (b) Except as provided in subdivision (a) of Section 1513.5,
34 subdivision (b) of Section 1514, and subdivision (d) of Section
35 1516, if the holder has in its records an address for the apparent
36 owner of property valued at fifty dollars (\$50) or more, which the
37 holder's records do not disclose to be inaccurate, the holder shall
38 make reasonable efforts to notify the owner by mail or, if the owner
39 has consented to electronic notice, electronically, that the owner's
40 property will escheat to the state pursuant to this chapter. The

1 notice shall be mailed not less than six nor more than 12 months
2 before the time when the owner's property held by the business
3 becomes reportable to the Controller in accordance with this
4 chapter. The face of the notice shall contain a heading at the top
5 that reads as follows: "THE STATE OF CALIFORNIA
6 REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED
7 PROPERTY MAY BE TRANSFERRED TO THE STATE IF
8 YOU DO NOT CONTACT US," or substantially similar language.
9 The notice required by this subdivision shall specify the time when
10 the property will escheat and the effects of escheat, including the
11 need to file a claim in order for the owner's property to be returned
12 to the owner. The notice required by this section shall, in boldface
13 type or in a font a minimum of two points larger than the rest of
14 the notice, exclusive of the heading, (1) specify that since the date
15 of last activity, or for the last two years, there has been no owner
16 activity on the deposit, account, shares, or other interest; (2)
17 identify the deposit, account, shares, or other interest by number
18 or identifier, which need not exceed four digits; (3) indicate that
19 the deposit, account, shares, or other interest is in danger of
20 escheating to the state; and (4) specify that the California
21 Unclaimed Property Law requires banks, banking organizations,
22 and financial organizations to transfer funds of a deposit, account,
23 shares, or other interest if it has been inactive for five years. It
24 shall also include a form, as prescribed by the Controller, by which
25 the owner may confirm the owner's current address. If that form
26 is filled out, signed by the owner, and returned to the holder, it
27 shall be deemed that the account, or other device in which the
28 owner's property is being held, remains currently active and
29 recommences the escheat period. In lieu of returning the form, the
30 holder may provide a telephone number or other electronic means
31 to enable the owner to contact the holder. With that contact, as
32 evidenced by a memorandum or other record on file with the
33 holder, the account or other device in which the owner's property
34 is being held shall be deemed to remain currently active and shall
35 recommence the escheat period. The holder may impose a service
36 charge on the deposit, account, shares, or other interest for this
37 notice in an amount not to exceed the administrative cost of mailing
38 or electronically sending the notice and form, and in no case to
39 exceed two dollars (\$2).

(c) In addition to the notice required pursuant to subdivision (b), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the property to the Controller.

(d) For purposes of this section, “lawful charges” means charges that are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 11. Section 1521 of the Code of Civil Procedure is amended to read:

1521. (a) Except as provided in subdivision (b), and subject to Section 1510, all employee benefit plan distributions and any income or other increment thereon escheats to the state if the owner has not, within five years after it becomes payable or distributable, accepted the distribution, corresponded in writing concerning the distribution, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary of the trust or custodial fund or administrator of the plan under which the trust or fund is established. As used in this section, “fiduciary” means any person exercising any power, authority, or responsibility of management or disposition with respect to any money or other property of a retirement system or plan, and “administrator” means the person specifically so designated by the plan, trust agreement, contract, or other instrument under which the retirement system or plan is operated, or if none is designated, the employer.

(b) Except as provided in subdivision (c), an employee benefit plan distribution and any income or other increment thereon shall not escheat to this state if, at the time the distribution shall become payable to a participant in an employee benefit plan, the plan contains a provision for forfeiture or expressly authorizes the administrator to declare a forfeiture of a distribution to a beneficiary thereof who cannot be found after a period of time specified in the plan, and the trust or fund established under the plan has not terminated prior to the date on which the distribution would become forfeitable in accordance with the provision.

(c) A participant entitled to an employee benefit plan distribution in the form of residuals shall be relieved from a forfeiture declared under subdivision (b) upon the making of a claim therefor.

SEC. 12. Section 1540 of the Code of Civil Procedure is amended to read:

1 1540. (a) Any person, excluding another state, who claims an
2 interest in property paid or delivered to the Controller under this
3 chapter may file a claim to the property or to the net proceeds from
4 its sale. The claim shall be on a form prescribed by the Controller
5 and shall be verified by the claimant.

6 (b) The Controller shall consider each claim within 180 days
7 after it is filed and may hold a hearing and receive evidence. The
8 Controller shall give written notice to the claimant if he or she
9 denies the claim in whole or in part. The notice may be given by
10 mailing it to the address, if any, stated in the claim as the address
11 to which notices are to be sent. If no address is stated in the claim,
12 the notice may be mailed to the address, if any, of the claimant as
13 stated in the claim. No notice of denial need be given if the claim
14 fails to state either an address to which notices are to be sent or an
15 address of the claimant.

16 (c) (1) The Controller shall add interest at the rate of 5 percent
17 per year or the bond equivalent rate of 13-week United States
18 Treasury bills, whichever is lower, to the amount of any claim paid
19 to the owner under this section for the period the property was on
20 deposit in the Unclaimed Property Fund. No interest shall be
21 payable for any period prior to January 1, 1977. Any interest
22 required to be paid by the state pursuant to this section shall be
23 computed as simple interest, not as compound interest.

24 (2) For purposes of this section, the bond equivalent rate of
25 13-week United States Treasury bills shall be defined in accordance
26 with the following criteria:

27 (A) The bond equivalent rate of 13-week United States Treasury
28 bills established at the first auction held during the month of
29 January shall apply for the following July 1 to December 31,
30 inclusive.

31 (B) The bond equivalent rate of 13-week United States Treasury
32 bills established at the first auction held during the month of July
33 shall apply for the following January 1 to June 30, inclusive.

34 (d) A holder who pays to the owner property that has escheated
35 and been remitted to the state, and that, if claimed from the
36 Controller, would be subject to subdivision (c) shall add interest
37 as provided in subdivision (c). If interest is added, that interest
38 shall be repaid to the holder by the Controller in the same manner
39 as the principal.

1 (e) For the purposes of this section, “owner” means the person
2 who had legal right to the property prior to its escheat, his or her
3 heirs, his or her legal representative, or a public administrator
4 acting pursuant to the authority granted in Sections 7660 and 7661
5 of the Probate Code.

6 ~~(f) Following a public hearing, the Controller shall adopt~~
7 ~~guidelines and forms that shall provide specific instructions to~~
8 ~~assist owners in filing claims pursuant to this article.~~

9 SEC. 13. Section 1564 of the Code of Civil Procedure is
10 amended to read:

11 1564. (a) All money received under this chapter, including
12 the proceeds from the sale of property under Section 1563, shall
13 be deposited in the Unclaimed Property Fund in an account titled
14 “Abandoned Property.”

15 (b) Notwithstanding Section 13340 of the Government Code,
16 all money in the Abandoned Property Account in the Unclaimed
17 Property Fund is hereby continuously appropriated to the
18 Controller, without regard to fiscal years, for expenditure in
19 accordance with law in carrying out and enforcing the provisions
20 of this chapter, including, but not limited to, the following
21 purposes:

22 (1) For payment of claims allowed by the Controller under the
23 provisions of this chapter.

24 (2) For refund, to the person making the deposit, of amounts,
25 including overpayments, deposited in error in the fund.

26 (3) For payment of the cost of appraisals incurred by the
27 Controller covering property held in the name of an account in the
28 fund.

29 (4) For payment of the cost incurred by the Controller for the
30 purchase of lost instrument indemnity bonds, or for payment to
31 the person entitled thereto, for any unpaid lawful charges or costs
32 that arose from holding any specific property or any specific funds
33 that were delivered or paid to the Controller, or that arose from
34 complying with this chapter with respect to that property or funds.

35 (5) For payment of amounts required to be paid by the state as
36 trustee, bailee, or successor in interest to the preceding owner.

37 (6) For payment of costs incurred by the Controller for the
38 repair, maintenance, and upkeep of property held in the name of
39 an account in the fund.

1 (7) For payment of costs of official advertising in connection
2 with the sale of property held in the name of an account in the
3 fund.

4 (8) For transfer to the Inheritance Tax Fund of the amount of
5 any inheritance taxes determined to be due and payable to the state
6 by any claimant with respect to any property claimed by him or
7 her under the provisions of this chapter.

8 *(c) The Controller shall record the name and last known address*
9 *of each person appearing from the holders' report to be entitled*
10 *to the escheated property and the name and last known address*
11 *of each insured person or annuitant, and with respect to each*
12 *policy or contract listed in the report of a life insurance*
13 *corporation, its number, and the name of the corporation. The*
14 *record shall be available for public inspection at all reasonable*
15 *business hours.*